



Republican Policy Committee

Don Nickles, Chairman Kelly Johnston, Staff Director 347 Russell Senate Office Building (202)224-2946

June 5, 1995

Is Guilt Irrelevant?

Victim's Family Waits 17 Years for Justice

On the morning of July 12, 1978, Willie Lloyd Turner entered Smith Jewelers in Franklin, Virginia, carrying a sawed-off shotgun wrapped in a towel. Without saying a word, Turner showed his shotgun to Jack Smith, Jr., the owner and operator of the store, and motioned for Smith to begin stuffing money into a bag. While filling the bag, Smith inconspicuously activated the store's silent alarm to the police department. Turner directed the several customers and employees to line up behind the store counter.

Shortly after Smith triggered the alarm, police officer Alan Bain arrived at the store. He did not see Turner and told Smith that his alarm had been activated. Turner then pointed his shotgun at Officer Bain's head and ordered him to remove his revolver from its holster and to put it on the floor. Turner then grabbed the officer's revolver, jabbed his shotgun at the officer, and directed him to the back of the store with the others.

Turner, now brandishing his shotgun in one hand and Bain's revolver in the other, fired the revolver into the back wall of the store. Then, without any provocation, he shot Jack Smith in the head. Smith yelled, slumped over the counter, and fell to the floor, unconscious, gurgling, and bleeding from the head. That shot, however, was not fatal.

At this point, Officer Bain began talking to Turner. He offered to take Turner out of the store if he would agree not to shoot anyone else. Turner then said, "I'm going to kill this . . . squealer," referring to Smith who lay severely wounded. Turner then reached over the counter with the revolver and fired two close-range shots into the left side of Smith's chest. The shots caused Smith's body to jump. Medical testimony established that either of these two shots to the chest would have been fatal. Immediately after the two shots, Officer Bain shoved Turner and grabbed his weapons. Bain then called for help.

Jack Smith was survived by his wife, Betty, and three children.

Family Endures At Least 19 Court Proceedings Over 17-Year Period

On December 4, 1979, Turner was convicted of murdering Smith, and on December 6, 1979, a jury recommended that he be sentenced to death. The conviction and sentence were affirmed by the Virginia courts. However, on April 30, 1986, the Supreme Court of the United States vacated Turner's death sentence (but not his conviction) because the trial court had refused

to question prospective jurors about possible bias resulting from the fact that Turner was an African-American and his dead victim was white [*Turner v. Murray*, 476 U.S. 28 (1986)]. On January 12, 1987, Turner's second sentencing jury returned a verdict again fixing his sentence at death. The second sentence was upheld by the Supreme Court of Virginia, and the United States Supreme Court denied a petition for appeal.

The procedural history of the Turner case includes at least 19 court proceedings that encompassed two full, direct reviews by Virginia's courts, four habeas corpus proceedings in the state courts, and another four habeas proceedings in the federal courts.

Final Appeal: The Long Stay on Death Row Is Cruel and Unusual Punishment

Willie Lloyd Turner was executed on May 25, 1995 after the federal courts rejected his last claim — that his long stay on death row constituted cruel and unusual punishment.

Statement From the Family of Jack Smith

For the first time in Virginia, members of the victim's family watched the execution. Afterwards, the family issued the following statement:

On July 12th, 1978, Willie Lloyd Turner walked into a jewelry store — after having just been released from prison — and committed a cold-blooded murder. The instant he did that, he robbed our family of a wonderful husband, a caring father and the community of Franklin of a respected businessman and good friend. He robbed our father of the opportunity to live a full and complete life, to retire with his wife in their later years, and the opportunity to become a grandfather.

Turner's act was heinous and cruel, and he never showed any remorse or regret for his criminal behavior. For 17 years he has exhausted every possible legal avenue to avoid the execution of his sentence. His claims of being treated cruelly by merely being incarcerated pale in comparison to the pain and cruelty inflicted on our family by his cold-blooded actions.

Tonight, the long and tortuous journey through the justice system is over. . . . Nothing will bring our father back or lessen the pain and sense of loss we feel by his death. But tonight, we can move on with our lives knowing that — despite the many delays and frustrations — justice has been determined and carried out.

We ask for your prayers tonight, not just for us, but for all the victims who must — unfortunately — endure ordeals such as ours.

Staff Contact: Lincoln Oliphant, 224-2946

[Sources: The description of the murder is taken from *Turner v. Williams*, 35 F.3d 872 (4th Cir. 1994). Federal District Judge Cacheris's memorandum opinion of May 22, 1995 says there were 18 court proceedings. RPC added the appeal to the 4th Circuit, 1995 U.S. App. LEXIS 12522 (decided May 24, 1995).]